	Policy and Procedures		Chapter (1-3)
	Subject: Use of Force		
	Issuing Authority: Robert Bongiorno Chief of Police		Effective Date: January 8, 2019
	Signature: On File		

Understanding Use of Force

Policy¹

Officers will use, or allow to be used objectively reasonable force when force is used to accomplish lawful objectives necessary to:

- Effect an arrest
- Restrain or subdue an individual resisting a lawful seizure; or
- Protect themselves or others from physical harm

Reasonable Standard

Reasonable Standard requires careful attention to the facts and circumstances of each particular case, including:

- Whether the suspect poses an immediate threat to the safety of the officer or others;
- The severity of the crime; and
- Whether the suspect is resisting arrest or attempting to evade arrest.
- Reasonable suspicion / Threshold Inquiries²

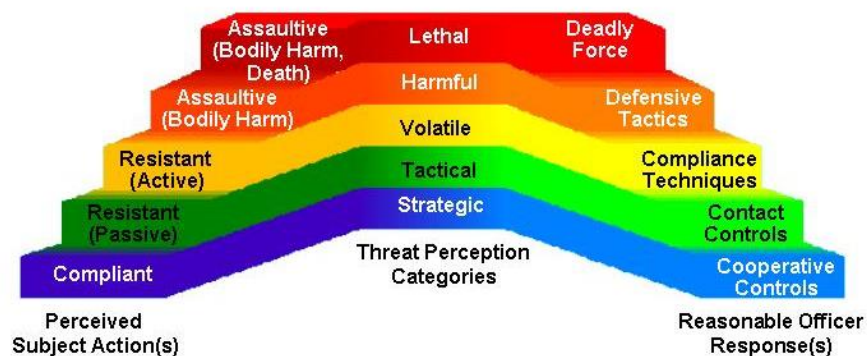
The standard allows for the fact that officers are often forced to make split second judgments in circumstances that are tense, uncertain and rapidly evolving. The standard requires that the officer's actions are objectively reasonable in light of the facts and circumstances confronting them.

¹ 1.3.1

² Terry v. Ohio 495 U.S. 1 (1967)

Use of Force Continuum

- Responses need not be exercised in progression.
- When feasible officers should advise subjects before any use of force.
- An officer must be aware of the following issues and the level of force they may represent:
 - Mere Presence of an officer or officers,
 - The presence and / or use of a canine (K-9),
 - Presence of a marked cruiser or cruisers (with or without emergency lights activated).

Use of Force Model**Force Escalation**

Escalating the level of force may be necessary given resistance levels and circumstances. Factors in this decision include, but are not limited to:

- Subject vs. officer - relative age, size, physical condition, skill level;
- Drugs and alcohol;
- Weapons - type, proximity;
- Seriousness of offense;
- Exigent circumstances;
- Number of potential assailants vs. number of police on the scene;
- Other options available.

Medical Aid³

After the detainee is secured safely, officers shall administer and secure medical aid after any use of force, if necessary. This includes lethal, less lethal and weaponless uses of force. The Officer-in-Charge shall immediately respond to the scene of any incident where, as a result of the application of physical force, an officer is injured, or a detainee has a visible injury, or complains of injury or discomfort and requests medical attention.

Less Lethal – Use of Force

Policy⁴

Officers are authorized to use less lethal force in order to:

- Protect themselves or others from physical harm;
- Control a resisting subject;
- Effect an arrest;
- Bring an unlawful situation safely and effectively under control;
- Place someone in protective custody;
- To preserve the peace, prevent the commission of offences, or prevent suicide or self-inflicted injury.

NOTE: Officers should assess each situation to determine which less lethal technique will best bring the incident under control, using that amount of force, which is reasonable.

**Verbal
Commands**

Commands and gestures should be designed to:

- Effect compliance; and
- Express the meaning or seriousness of the officer's intent.
- To diffuse or de-escalate the situation.

When more than one officer, only one person should be giving the commands.

³ 1.3.5

⁴ 1.3.4

Contact Controls and Compliance Techniques

Control techniques may be used to achieve compliance and/or control of an uncooperative subject. These techniques include:

- Physical manipulations such as escort positions, come-a-longs, take downs, wrist locks, etc.
 - Temporary restraints; such as handcuffs
 - Baton (as trained).
-

OC or ECW Deployment

OC spray or an Electronic Control Weapon (Laser Activation, Spark Display or Drive Stun ONLY) may be used in situations involving:

- Assault; or,
 - Active resistant subject:
 1. Verbal commands have failed to bring about compliance; and
 2. Subject has signaled his/her intentions to actively resist.
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Striking Techniques⁵

Striking techniques or an Electronic Control Weapon (Laser Activation, Spark Display, Drive Stun or Probe Mode) may be used to achieve compliance and/or control of an assaultive (bodily harm) subject. These techniques include:

- Weaponless Strikes, defined as empty handed strikes or strikes using parts of the human body, as well as physical force techniques, including distraction techniques that are those techniques an officer feels necessary to use to effect “Take Down and Control Holds” by generally using their hands.
 - Tools of Immediate Means.
 - 40mm Launcher (as trained).
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Electronic Control Weapon Deployment

If deployed, ECW cycles shall be limited to the minimum number of deployments necessary and should last no longer than necessary to bring an individual under control.

⁵ 1.3.6 (d) also “Use of Force Reporting” in this policy.

Lethal – Use of Force

Policy⁶

Officers may use lethal force only when the officer reasonably believes that the action is:

- In defense of human life, including the officer's own life, or in defense of any person in imminent danger of serious physical injury.
- If feasible a warning should be given prior to the use of lethal force;

➤ **Preferred Warning – “Police – Don’t Move!”**

Parameters for the use of lethal force when effecting an arrest:

1. The arrest if for a felony;
 2. The officer reasonably believes that:
 - a. The force employed creates no substantial risk of injury to innocent persons; and
 - b. The crime for which the arrest is made involved the use or attempted use, or threatened use of lethal force; and
 - c. There is a substantial risk that the person to be arrested will cause death or serious physical injury if his/her apprehension is delayed.
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⁶ 1.3.2

Definitions

Reasonable Belief – The facts and circumstances the officer knows, or should know, are such as an ordinary and prudent person to act or think in a similar way under similar circumstances.

Serious Physical Injury – A bodily injury that creates a substantial risk of death; causes serious, permanent disfigurement; or results in long-term loss or impairment of the functioning of any bodily member or organ.

Objectively Reasonable - This term means that, in determining the necessity for and appropriate level of force, officers shall evaluate each situation in light of the known circumstances, including, but not limited to, the seriousness of the crime, the level of threat or resistance presented by the subject, and the danger to the officer, subject, and/or community. The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on scene, rather than with the 20/20 vision of hindsight. Determining reasonableness of force must allow for the fact that police officers are forced to make split second judgments in circumstances that are tense, uncertain and rapidly evolving. The force used must be reasonable under the circumstances known to the officer at the time force is used.

Use of Firearms Firearm use is to be governed by the following:

Allowed Use	Not Allowed Use
Firearms may be discharged: <ul style="list-style-type: none">• The lawful performance of duties.• When doing so will not unreasonably endanger innocent persons.• On or off duty training or target practice at a training range.• Rendering harmless an animal that represents a threat to public safety or is seriously injured and suffering.	Firearms shall <u>not</u> be discharged: <ul style="list-style-type: none">• As a warning.⁷• At or from a moving motor vehicle – unless there is imminent threat of death or serious injury to the officer or others without taking evasive action, if possible.• To threaten or subdue persons whose actions are destructive to property or harmful only to them, unless such actions constitute an imminent threat of death or serious bodily injury to the officer or others• To disable a vehicle.• To apprehend a fleeing felon unless (see below)

Fleeing Felons Firearms shall **not** be discharged to apprehend a fleeing felon unless:

1. It is for a felony that involved the use or threatened use of deadly force, **and**
 2. Escape would result in imminent death or serious bodily injury to the officer or another if the apprehension is delayed.
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⁷ 1.3.3

Use of Force Reporting

Policy

A use of force report shall be submitted and reviewed for every reportable incident. The review committee will yearly review all Use of Force Reports.

Reportable Incident

The involved officer(s) shall submit a separate written use of force report (Form UOF-001) in addition to any other report required, when:

- - Any incident regarding the use of issued or authorized firearms or ammunition by any officer or employee, whether accidental or intentional and whether on or off duty. (Obvious exceptions are during the lawful performance of duties and activities such as, but not limited to: Range Officers, Armorer, Ballistician, training and hunting.⁸,
 - A firearm or Electronic Control Weapon is withdrawn and pointed or aimed at an individual or group.
 - A striking technique is used including weaponless strikes⁹,
 - OC is deployed,
 - The use of force or any action that did cause or is reported to have caused injury or death to another¹⁰;
 - The use of any technique in which the officer applies force to an individual that may cause pain or injury; or
 - Any weapon used (lethal or less lethal)¹¹.
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⁸ 1.3.6 (a)

⁹ 1.3.6 (d) also “Striking Techniques” from this policy (Weaponless Strikes – definition)

¹⁰ 1.3.6 (b)

¹¹ 1.3.6 (c)

Report

Unless otherwise authorized by the Chief of Police or his designee, a Use of Force report shall be completed and submitted to the Officer-in-Charge before the end of the duty shift. This report will contain the names and copies of any reports and policies from any assisting out-of-town officers.

- The Officer-in-Charge will give a reviewed copy of this report to the Patrol Division Lieutenant and place a copy into the incident folder.
- The Patrol Division Lieutenant will administratively review each report (including every individual report where an officer's use of force results in the actual or alleged death or serious bodily injury of another person) unless involved in the incident, if so, the Detective Division Lieutenant or the Chief of Police will perform the administrative review.¹²
- An officer who is unable to submit a report due to injury shall file the report as soon as he/she is physically able.
- The Use of Force Report shall explain in detail the circumstances surrounding the incident and shall be separate from any other required reports.
- If an Electronic Control Weapon is deployed the following additional information shall be included in the report form:
 - Number of discharges and length of discharge;
 - Location of probes on the subject's body.
- The Officer-in-Charge shall secure the ECW in the OIC gun cabinet and notify Sgt. Vitale.
- Sgt. Vitale shall download the data as per the manufacturer instructions to be included with the ***Use of Force Report (Form UOF-001)*** and external reporting to include:
 - The Executive Office of Public Safety and Security (EOPSS) ECW Use Reporting Form is completed and submitted as required by EOPSS in accordance with M.G.L. c. 140, § 131J and St. 2004, c. 170, s.2;
 - Forward a copy of the EOPSS ECW Use Reporting Form to the Deputy Superintendent.

Archives

The Patrol Division Lieutenant will be responsible for the storage/archive of all Use of Force Reports and findings in the Patrol Division Lieutenant's file cabinet¹³.

¹² 1.3.7

¹³ 1.3.6 File Location

Response to Lethal Use of Force

Policy	Every incident where any employee, whose actions, use of force or firearms discharge in an official capacity results in serious physical injury or death shall require the department to immediately respond to the scene and conduct an investigation.
Public Information	During the course of the investigation, no police personnel will give any detailed information concerning the incident to any members of the public or news media without the express authority from the Chief of Police. In no case shall any information which is prejudicial to any party be released prior to the completion of the investigation. <i>(See News Media and Public Information Officer Policy Chapter 54-1)</i>
Officer Involved	<p>At the scene the officer shall:</p> <ul style="list-style-type: none">• Request emergency medical aid;¹⁴• Promptly notify the dispatcher, Officer-in-Charge;• Unless Injured, remain at the scene and protect and secure it to the extent possible, pending the arrival of the appropriate investigators and;<ul style="list-style-type: none">○ If the circumstances are such that the continued presence of the officer at the scene might cause a more hazardous situation to develop (unruly / violent bystanders / crowd), that the officer should be transported to another, more appropriate location.• Protect the firearm and / or ammunition for examination and submit said items to the appropriate investigator;• The firearm should be surrendered only to another police officer, unless otherwise instructed by the Officer-in-Charge; The officer should refrain from speaking or discussing the incident with anyone except those directly involved or legal counsel.• Prepare a detailed report of the incident in a timely manner (one sleep cycle allowing at least 24 hours from initial incident);• The officer should be available, at reasonable times, for interviews and statements regarding the incident.

¹⁴ 1.3.5

Dispatch

The emergency communications officer shall:

- Immediately notify the Officer-in-Charge
 - Dispatch sufficient number of officers to the scene;
 - Make all appropriate, accurate and complete administrative computer entries;
 - Politely refer all media requests for information to the Public Information Officer or John Guilfoil Public Relations LLC at 617-993-0003 (*see News Media and Public Information Officer Policy Chapter 54-1*)
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Officer in Charge

Officer in Charge should:

- Insure medical attention is considered and given if necessary.
- Respond to the scene.
- Insure that the Division Lieutenant is notified.
- Insure that the Chief of Police is notified.
- Take control of the firearm or weapon used until the proper reports have been filed and a preliminary investigation has been completed.
 - This should be done in a discrete manner and out of the public's view.
 - Whenever possible, the officer's firearm should be replaced by another firearm.
 - Ensure proper chain of custody of the impounded weapon until it is placed in the custody of the State Police crime lab personnel;
- The involved employee will be given the opportunity to call his/her family as soon as possible to avoid the possibility of their learning about the incident through other than official sources, e.g., press, radio, television, etc.
- Make all resources, facilities and personnel of the department available to the assigned investigators;
- Ensure that the involved officer(s) is provided with appropriate Federal and State civil rights protection;
- Politely refer all media requests for information to the public Information Officer. (*see News Media and Public Information Officer Policy Chapter 54-1*);
- Interview all injured parties, if possible, to ascertain the circumstances involved in the shooting;
- Assign a sufficient number of officers to secure the scene of the shooting to preserve physical evidence and request the assistance of investigators and / or crime scene technicians as appropriate;
- Notify the Middlesex District Attorney's Office whenever the use of force results in the death of any person.
- File a preliminary report prior at the conclusion of their tour of duty and file a complete detailed investigative report to the Chief of Police upon the completion of the investigation.
- Immediately remove the officer or employee from the line-duty assignment and assign the officer(s) to temporary administrative desk duties pending the administrative review of the incident¹⁵.

¹⁵ 1.3.8

Police Chief

Police Chief should:

- Use his discretion of placing the involved officer(s) on administrative duty or administrative leave pending the completion of an investigation of the incident.
 - In those incidents of the use of lethal force / firearms where a death results, the District Attorney's Office, pursuant to the terms of MGL c.38 s.6, shall be notified forthwith and shall assume control of the investigation;
 - Ensure a thorough investigation was conducted and that all reports were prepared and submitted;
 - Review all reports to determine whether the use of force was in compliance with department policies and procedures;
 - Require any officer(s) involved in an incident resulting in the death or serious bodily injury of another to attend a psychological debriefing. This shall be confidential.
 - Call anyone of the following:
 1. Chandler Street Associates, Dr. John Madonna;
 - Day telephone number: (508) 757-7430 or (617) 739-7171.
 - Night Telephone number: (508) 755-8559.
 2. Massachusetts State Police Stress Unit – Call HQ at (508) 820-2121
 3. Boston Police Stress Support Unit – Call HQ at (617) 482-1212
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Use of Force Review Committee

Policy	Annually an appointed review committee shall review all Use of Force reports and document their findings in a written report.
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Members	<p>The review committee will include:</p> <ul style="list-style-type: none">• The patrol division commander,• The detective division commander,• The department's firearms instructor,• The Accreditation Manager, and• A union representative.
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Committee Duties	<p>The Accreditation Manager will set up the Review Committee yearly review:</p> <ul style="list-style-type: none">• When appointed the Review Committee shall review and, if necessary investigate the incident in order to determine if the use of force was in compliance with departmental policy. The report of findings will be submitted to the Chief of Police for appropriate action.• The Use of Force Committee will review all Use of Force reports and document their findings in a written report¹⁶.• The report of findings should include the relevant facts and circumstances surrounding the incident, and at a minimum the following areas should be examined:<ul style="list-style-type: none">➤ Tactical considerations➤ Training considerations➤ Quality of supervision➤ Department policy and procedures➤ Investigative process and quality➤ The committee will make recommendations to the Chief.

¹⁶ 1.3.13

Use of Force Information

History

January 8, 2019 – Replaces Use of Force Policy (Chapter 1-3) issued November 3, 2016.

November 3, 2016 – Replaces Use of Force Policy (Chapter 1-3) issued April 2, 2015.

April 2, 2015 – Replaces Use of Force Policy (Chapter 1-3 issued April 1, 2013.

April 1, 2013 – Replaces Use of Force Policy (Chapter 1-3) issued December 18, 2012.

December 18, 2012 – Replaces Use of Force Policy (Chapter 1-3) issued January 11, 2012.

January 11, 2012 – Replaces UOF-001 issued July 12, 2010.

July 12, 2010 – Replaces UOF-001 issued January 8, 2002 and replaces “Bedford Police Department Policy for Pepper Aerosol Restraint Spray” issued in February 1996.

Review Date

This Policy is scheduled for review every year and updated as necessary.
